

#3



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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| APPLICATION NUMBER | FILING/RECEIPT DATE | FIRST NAMED APPLICANT | ATTORNEY DOCKET NUMBER |
|--------------------|---------------------|-----------------------|------------------------|
| 10/010,576 | 11/13/2001 | Mark A. Reiley | 1759.2570-CIP5CON |

CONFIRMATION NO. 5780

RYAN KROMHOLZ & MANION, S.C.
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FORMALITIES LETTER



COPY OF PAPERS
ORIGINALLY FILED

Date Mailed: 12/28/2001

NOTICE TO FILE CORRECTED APPLICATION PAPERS

Filing Date Granted

This application has been accorded an Application Number and Filing Date. The application, however, is informal since it does not comply with the regulations for the reason(s) indicated below. Applicant is given **TWO MONTHS** from the date of this Notice within which to correct the informalities indicated below. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a)

The required item(s) identified below must be timely submitted to avoid abandonment.

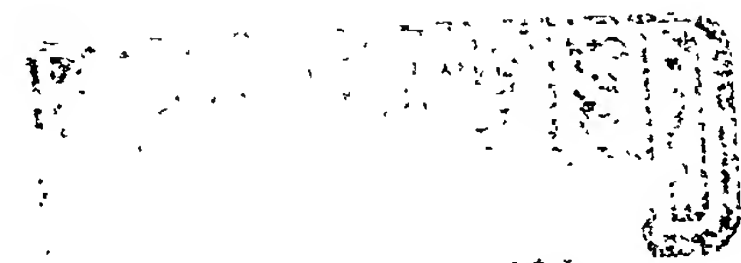
- Substitute drawings in compliance with 37 CFR 1.84 because:
 - drawing sheets do not have the appropriate margin(s) (see 37 CFR 1.84(g)) Each sheet must include a top margin of at least 2.5 cm (1 inch), a left side margin of at least 2.5 cm. (1 inch), a right side margin of at least 1.5 cm. (5/8 inch), and a bottom margin of at least 1.0 cm. (3/8 inch),

A copy of this notice MUST be returned with the reply.

Customer Service Center
Initial Patent Examination Division (703) 308-1202

PART 1 - ATTORNEY/APPLICANT COPY

DOCKETED

DUE: 2/28/2003CLERK: JB

RYAN KROMHOLZ & MANION S.C.



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0300
PATENT #3

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of Mark Reiley et al.

Group: 3731

Serial No.: 10/010,576

Examiner: Unknown

Filed: 13 November 2001

For: Systems and Methods Using Expandable Bodies to Push Apart Cortical Bone Surfaces

Commissioner of Patents and Trademarks
Washington, D.C. 20231
ATTENTION: Application Division

COMPLETION OF FILING REQUIREMENTS

(check and complete this item, if applicable)

- I. ☒ This replies to the Notice to File Missing Parts of Application (PTO-1533) mailed
28 December 2001.

NOTE: If these papers are filed before the office letter issues adequate identification of the original papers should be made, e.g., in addition to the name of the inventor and title of invention, the filing date based on the "Express Mail" procedure, the serial number from the return post card or the attorney's docket number added.

- ☒ A copy of the Notice to File Missing Parts of Application-Filing Date
Granted (Form PTO-1533) is enclosed.

NOTE: The PTO requires that a copy of Form PTO-1533 be returned with the response to the notice to file missing parts to the application.

DECLARATION OR OATH

- II. ☐ No original declaration or oath was filed and enclosed is the original declaration or oath for this application.

CERTIFICATE OF MAILING (37 CFR 1.8a)

I hereby certify that this paper (along with any paper referred to as being transmitted therewith) is being deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to the: Commissioner of Patents and Trademarks, Washington, D.C. 20231.

Mary Szollar

(Type or print name of person mailing paper)

Date: 17 January 2002

(Signature of person mailing paper)

OR

- ☐ The original declaration or oath which was filed was determined to be defective. A new original oath or declaration is attached.

NOTE: 37 CFR 1.41(a) points out that "Full names must be stated, including the family name and at least one given name without abbreviation together with any other given name or initial."

NOTE: For surcharge fee for filing declaration after filing date complete item VI(3) below.

NOTE: Acceptable minimums in the declaration for identification of the specification to which it applies are the name of the inventor AND (1) SERIAL NUMBER (2) ATTORNEY DOCKET NUMBER WHICH WAS ON THE APPLICATION AS FILED AND THE FILING DATE (3) TITLE OF THE INVENTION AND FILING DATE (4) TITLE OF INVENTION AND REFERENCE TO A SPECIFICATION WHICH IS ATTACHED TO THE DECLARATION AT THE TIME OF EXECUTION AND FILED WITH THE DECLARATION OR (5) TITLE OF INVENTION AND A STATEMENT BY A REGISTERED ATTORNEY THAT THE APPLICATION FILED IN THE PTO IS THE APPLICATION WHICH THE INVENTOR EXECUTED BY SIGNING THE DECLARATION. IF IDENTIFICATION (4) IS USED IT MUST BE ACCOMPANIED BY A STATEMENT THAT THE "ATTACHED" SPECIFICATION IS A COPY OF THE SPECIFICATION AND ANY AMENDMENTS THERETO WHICH WERE FILED IN THE PTO TO OBTAIN THE FILING DATE; SUCH A STATEMENT MUST BE A VERIFIED STATEMENT IF MADE BY A PERSON NOT REGISTERED TO PRACTICE BEFORE THE PTO. NOTICE OF SEPTEMBER 12, 1983 (1035 O.G. 3).

NOTE: Another minimum found acceptable in the declaration is the filing date (i.e., date of express mail) and the express mail number, useful where the serial number is not yet known. But note the practice where the express mail deposit is a Saturday, Sunday or holiday within the District of Columbia. 37 CFR 1.10(c).

(complete (c) or (d), if applicable)

Attached is a

- (c) ☐ Statement by a registered attorney that the application filed in the PTO is the application which the inventor executed by signing the declaration.
- (d) ☐ Statement that the "attached" specification is a copy of the specification and any amendments thereto which were filed in the PTO to obtain the filing date.

AMENDMENT CANCELLING CLAIMS

- III. ☐ Cancel claims _ inclusive.

TRANSMITTAL OF ENGLISH TRANSLATION OF NON-ENGLISH LANGUAGE PAPERS

IV.

- ☐ Submitted herewith is a verified English translation of the non-English language application papers as originally filed. It is requested that this translation be used as the copy for examination purposes in the PTO.

NOTE: For fee processing a non-English application complete item VI(5) below.

NOTE: A non-English oath or declaration in the form provided or approved by the PTO need not be translated. 37 CFR 1.69(b).

NOTE: The translation for a regular application filed in a foreign language must be verified. 37 CFR 1.52(d).

SMALL ENTITY STATUS

V.

☒ The applicant is a small entity and is entitled to Small Entity Status.

VI.

COMPLETION FEES

WARNING: Failure to submit the surcharge fees where required will cause the application to become abandoned. 37 CFR 1.53(d).

NOTE: The filing fees, fees for claims and surcharge fees listed below in items 1, 2 and 3 are reduced by 50% where proof of a small entity status is established on or before the date the fee is paid. If the full fee was paid but a verified statement is filed within 2 months of the date of timely payment of a fee then the excess fee paid will be refunded on request. 37 CFR 1.28(a).

1. Filing fee

☐ original patent application (37 CFR 1.16(a))
\$740.00; Small entity-\$370.00 \$_____

☐ design application (37 CFR 1.16(f))
\$330.00; small entity-\$165.00 \$_____

2. fees for claims

☐ each independent claim in excess of 3
(37 CFR 1.16(b)-\$84.00; small entity-\$42.00) \$_____

☐ each claim in excess of 20
(37 CFR 1.16(c)-\$18.00; small entity-\$9.00) \$_____

☐ multiple dependent claim(s)
(37 CFR 1.16(d)-\$280.00; small entity-\$140.00) \$_____

3. surcharge fees

☐ late payment of filing fee

and/or

☐ late filing of original declaration or oath
(37 CFR 1.16(e)-\$130.00; small entity-\$65.00); \$_____

NOTE: Even where a facsimile declaration or oath signed by the inventor(s) was part of the originally filed papers the surcharge fee is required.

NOTE: If both the filing fee and declaration or oath were missing from the original papers only one surcharge fee for both need be paid 37 CFR 1.16(e).

4. ☐ petition and fee for filing by other than all the inventors
or a person not the inventor
(37 CFR 1.17(h) and 1.47-\$130.00) \$_____

5. ☐ fee for processing an application filed with a specification
in a non-English language
(37 CFR 1.17(k) and 1.52(d)-\$130.00) \$_____

6. ☐ fee for processing and retention of application
(37 CFR 1.21(l) and 1.53(d)) - \$300.00 \$ _____

NOTE: 37 CFR 1.21(l) establishes a fee for processing and retaining any application which is abandoned for failing to complete the application pursuant to 37 CFR 1.53(d) and this, as well as, the changes to 37 CFR 1.53 and 1.78 indicate that in order to obtain the benefit of a prior U.S. application, either the basic filing fee or the processing and retention fee of \$ 1.21(1) within 1 year of notification under \$1.53(d) must be paid.

Total completion fees \$ 0.0

VII. **EXTENSION OF TIME**

(complete (a) or (b) as applicable)

The proceedings herein are for a patent application and the provisions of 37 CFR 1.136(a) apply.

(a) ☐ Applicant petitions for an extension of time, the fees for which are set out in 37 CFR 1.17(a)-(d), for the total number of months checked below:

| Extension (months) | Fee for other than Small Entity | Fee for Small Entity |
|---------------------------------------|------------------------------------|-------------------------|
| <input type="checkbox"/> one month | \$ 110.00 | \$ 55.00 |
| <input type="checkbox"/> two months | \$ 400.00 | \$200.00 |
| <input type="checkbox"/> three months | \$ 920.00 | \$460.00 |
| <input type="checkbox"/> four months | \$1440.00 | \$720.00 |
| <input type="checkbox"/> five months | \$1960.00 | \$985.00 |

If an additional extension of time is required please consider this a petition therefor.

(check and complete the next item, if applicable)

☐ An extension for _____ months has already been secured and the fee paid therefor of \$ _____ is deducted from the total fee due for the total months of extension now requested.

Extension fee due with this request \$ _____

or

(b) ☒ Applicant believes that no extension of term is required. However, this conditional petition is being made to provide for the possibility that applicant has inadvertently overlooked the need for a petition and fee for extension of time.

VIII. **TOTAL FEE DUE**

The total fee due is

Completion fee(s) \$ 0.0

Extension fee (if any) \$ _____

TOTAL FEE DUE \$ 0.0

IX.

PAYMENT OF FEES

- ☐ enclosed is a check in the amount of \$___ (includes assignment recordal)
- ☐ charge Account No. _____ in the amount of \$_____. A duplicate of this request is attached.

NOTE: Fees should be itemized in such a manner that it is clear for which purpose the fees are paid. 37 CFR 1.22(b).

X.

AUTHORIZATION TO CHARGE ADDITIONAL FEES

WARNING: ACCURATELY COUNT CLAIMS, ESPECIALLY MULTIPLE DEPENDANT CLAIMS, TO AVOID UNEXPECTED HIGH CHARGES IF EXTRA CLAIMS ARE AUTHORIZED.

- ☒ The Commissioner is hereby authorized to charge the following additional fees which may be required by this paper and during the pendency of this application to Account No. 06-2360.
- ☒ 37 CFR 1.16 (a), (f) or (g) (filing fees)
- ☒ 37 CFR 1.16 (b), (c) and (d) (presentation of extra claims)

NOTE: Because additional fees for excess or multiple dependent claims not paid on filing or on later presentation must only be paid or these claims cancelled by amendment prior to the expiration of the time period set for response by the PTO in any notice of fee deficiency (37 CFR 1.16(d)), it might be best not to authorize the PTO to charge additional claim fees, except possibly when dealing with amendments after final action.

- ☒ 37 CFR 1.16(e) (surcharge for filing the basic filing fee and/or declaration on a date later than the filing date of the application)
- ☒ 37 CFR 1.17 (application processing fees)

WARNING: WHILE 37 CFR 1.17(A), (B), (C) AND (D) DEAL WITH EXTENSIONS OF TIME UNDER S 1.136(A) THIS AUTHORIZATION SHOULD BE MADE ONLY WITH THE KNOWLEDGE THAT. "SUBMISSION OF THE APPROPRIATE EXTENSION FEE UNDER 37 CFR 1.136(A) IS TO NO AVAIL UNLESS A REQUEST OR PETITION FOR EXTENSION IS FILED." (EMPHASIS ADDED). NOTICE OF NOVEMBER 5, 1985 (1060 O G. 27)

- ☐ 37 CFR 1.18 (issue fee at or before mailing of Notice of Allowance, pursuant to 37 CFR 1.311(b))

NOTE: Where an authorization to charge the issue fee to a deposit account has been filed before the mailing of a Notice of Allowance, the issue fee will be automatically charged to the deposit account at the time of mailing the notice of allowance. 37 CFR 1.311(b).

NOTE: 37 CFR 1 28(b) requires "Notification of any change in loss of entitlement to small entity status must be filed in the application prior to paying, or at the time of paying .. issue fee". From the wording of 37 CFR 1 28(b): (a) notification of change of status must be made even if the fee is paid as "other than a small entity" and (b) no notification is required if the change is to another small entity.

Reg. No. 29,243

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(Signature of Attorney)

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